

ESTTA Tracking number: **ESTTA660291**

Filing date: **03/10/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91217630
Party	Plaintiff Sturgis Motorcycle Rally, Inc.
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Date	03/10/2015
Attachments	2015-03-10 Hansen Opposition - Partial Opposition to Motion to Amend.pdf(1042919 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Sturgis Motorcycle Rally, Inc.,

Opposer,

v.

Gary St. Martin Hansen,

Applicant.

Opposition No. 91217630

**OPPOSER'S PARTIAL OPPOSITION TO APPLICANT'S MOTION TO AMEND  
GOODS AND SERVICES**

On February 17, 2015, Applicant, Gary St. Martin Hansen ("Mr. Hansen" or "Applicant"), filed a Motion to Amend Goods and Services ("Motion"), by which he proposes to delete all of the services set forth in U.S. Appl. Serial No. 86/112,261. Opposer, Sturgis Motorcycle Rally, Inc. ("SMRI" or "Opposer"), does not contest that part of Mr. Hansen's motion. Accordingly, the Board should grant Mr. Hansen's request to delete all of his pleaded services, and, pursuant to 37 CFR § 2.135, TBMP §§ 602.01 and 605.03(b), refuse the registration and enter judgment in favor of Opposer.

Mr. Hansen also seeks to replace the applied-for services with new goods found in another class, namely, "musical instruments" in International Class 15. Opposer neither has consented to the amendment nor could consent to it, as the proposed amendment adds goods not presently in the opposed application and thus would constitute an impermissible amendment pursuant to Trademark Rules 2.71-2.75. *See* TBMP §§ 514.01 and 605.03(b). The Board should refuse the Applicant's request to create a new application, which has not been subject to review by an Examiner or otherwise considered by the PTO.

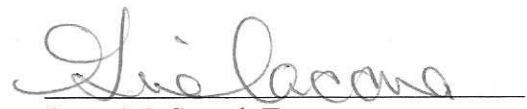
This is not Mr. Hansen's first attempt to delete all of the services in the pending Appl. Serial No. 86/112,261. Mr. Hansen previously sought to amend the opposed application to substitute his Class 40 services with "bentonite," goods on which he does not use his mark, and the Board refused the amendment. Doc. No. 14, Feb. 2, 2015. Counsel for Opposer had consulted with Mr. Hansen by telephone on September 26, 2014, but did not consent to any proposed amendment. And contrary to Mr. Hansen's statement that the instant motion is filed "in yet another effort to appease Jason Sneed, Attorney for SMRI," Mr. Hansen has not consulted with Opposer's Counsel before filing the present motion.<sup>1</sup>

Mr. Hansen's proposed amendment also constitutes an abandonment of the application. No other services remain after he deletes the Class 40 services. See 37 CFR § 2.135. *See e.g.*, TBMP §§ 602.01 and 605.03(b). Accordingly, judgment should enter against Mr. Hansen as he filed a written abandonment of the application without the written consent of SMRI. 37 CFR § 2.135; *see also Grinnell Corp. v. Grinnell Concrete Pavingstones Inc.*, 14 USPQ2d 2065, 2067 (TTAB 1990) (consent required for abandonment without prejudice regardless of motivation for abandonment).

Opposer hereby requests that the Board enter an order accepting the deletion of the Class 40 services and entering judgment in Opposer's favor against the pending application, and denying Applicant's Motion to add Class 015 goods. This proceeding should be dismissed with prejudice.

Dated: March 10, 2015

Respectfully Submitted,

  
Jason M. Sneed, Esq.  
Gina R. Iacona, Esq.

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<sup>1</sup> Though consent to the addition of Class 15 goods would not and could not have been given.

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Motorcycle Rally, Inc.*

**Certificate of Service**

The undersigned counsel of record hereby certifies that a copy of the foregoing  
*Opposer's Partial Opposition to Applicant's Motion to Amend Goods and Services* was served  
by placing a copy in U.S. Mail, postage prepaid, this 10th day of March, 2015, and addressed to  
the following:

Gary St. Martin Hansen  
399 Lower Main West  
Johnson, Vermont 98110

  
An Attorney for Opposer